

# DRAFT

## **CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD CENTRAL COAST REGION**

### **ADMINISTRATIVE CIVIL LIABILITY STIPULATED ORDER NO. R3-2004-0107**

(Revised November 24, 2004)

#### **Issued To**

### **CALIFORNIA DEPARTMENT OF TRANSPORTATION HWY 101/156 INTERCHANGE, PRUNEDALE MONTEREY COUNTY**

The California Regional Water Quality Control Board, Central Coast Region (Regional Board), finds that:

- 1) State Water Resources Control Board Order No. 99-06-DWQ establishes the National Pollutant Discharge Elimination System Permit for Storm Water Discharges from California Department of Transportation (CalTrans) Properties, Facilities, and Activities (hereafter CalTrans Permit).
- 2) On January 26, 2001, the California Department of Transportation filed a Notice of Construction for the "101/156 Interchange" (Site), Expenditure Account (EA) Number 0161U, for permit coverage pursuant to the CalTrans Permit.
- 3) Runoff from the Site flows to an unnamed stream locally referred to as Prunedale Creek. Prunedale Creek flows to Tembledaro Slough, which flows to the Old Salinas River, then to Monterey Bay. These water bodies are Waters of the State and Waters of the United States. Tembledaro Slough and all unnamed surface water bodies (including tributaries), have beneficial uses assigned to them, as listed in Table 2 -1 of the Water Quality Control Plan, Central Coast Region (Basin Plan).
- 4) On August 7, 2003, the Regional Board's Executive Officer issued Administrative Civil Liability Complaint No. R3-2003-0078 (Complaint) which alleges CalTrans violated provisions of the CalTrans Permit while engaged in construction activities at the Site, for which the Regional Water Quality Control Board (Regional Board) may impose civil liability pursuant to Section 13385 of the Water Code.
- 5) Caltrans denies the above allegations. Without an admission of liability and based upon the terms of this Order and Settlement Agreement, CalTrans agrees to pay the sums and conduct the workshops specified below. This order is based upon Caltrans' agreement and is for the purpose of enforcement of payment of the sums due by CalTrans. However, it is not based upon a finding of liability that might be used against CalTrans for any other purpose.
- 6) A hearing on this matter was held before the Regional Board on October 24, 2003, in Santa Barbara, California. The Discharger's representatives had the opportunity to be heard and to contest the allegations in the Complaint No. R3-2003-0078.
- 7) At the hearing, the Regional Board considered whether to affirm, reject or modify the proposed administrative liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

- 8) Following testimony on October 24, 2003, the Regional Board continued the hearing and requested Regional Board staff and the Discharger to pursue a Settlement Agreement.
- 9) Regional Board staff and the Discharger met numerous times to discuss settlement. A tentative settlement agreement, subject to a public hearing and Regional Board approval, was reached on January 24, 2005.
- 10) Regional Board staff costs for investigating this incident and follow-up (technical, legal, and administrative) were approximately \$7,500.00, as agreed upon in the settlement.
- 11) Based upon the terms of this Order and the signed Settlement Agreement, CalTrans, without admission of liability, agrees to pay for and provide storm water training related to construction activities and the requirements of the General Construction Permit as outlined below.
- 12) This Order is based upon relevant evidence in the Regional Board files and upon consideration of the factors mandated by Water Code § 13385.
- 13) Upon Caltrans' satisfactory completion of its obligations under this Order, this Order will resolve all claims against Caltrans for violations alleged in the Complaint, and other violations, if any, that occurred prior to August 7, 2003.
- 14) This enforcement action is taken for the protection of the environment and as such is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) in accordance with section 15307 and 15308, Title 14, California Code of Regulations.

**IT IS HEREBY ORDERED, AS STIPULATED BETWEEN THE PARTIES:**

Without any admission of liability, as a means of settlement and full resolution of all issues related to this Administrative Civil Liability, that California Department of Transportation agrees to the following:

1. Caltrans shall pay Regional Board staff costs of Seven Thousand Five Hundred Dollars (\$7,500). The check shall be made payable to the State Water Resources Control Board and delivered to the Central Coast Regional Water Quality Control Board by March 15, 2005.
2. Caltrans, without admitting liability, shall pay for and provide training in the use of storm water Best Management Practices for erosion and sediment control related to construction activities and the requirements of the General Permit For Storm Water Discharges Associated With Construction Activity. The training classes will be conducted by Caltrans or its consultants (hereinafter Caltrans) and will be made available to any permittees and municipalities in the Central Coast Region. The training classes will be offered 3 times per year during the 60 days prior to October 15 for 5 years beginning in the 60 days prior to October 15, 2005 for a total of 15 workshops. Each workshop will accommodate a minimum of 50 and a maximum of 75 attendees. The Regional Board Executive Officer and the CalTrans District Director will

mutually agree upon the content and location of the training. CalTrans will perform or provide the following services:

- Manage all logistical concerns relating to the training classes;
- Identify training dates no later than August 1 of each year;
- Provide for appropriate course locations geographically separated into the northern, central and southern areas of the Central Coast Region;
- Appropriately advertise the training;
- Provide the course instruction;
- Provide the instructional materials,
- Provide all necessary instructional aids, and
- Manage course registration and attendee logs

The Regional Water Quality Control Board will be responsible to provide Caltrans or its contractors with the following:

- Promptly review and comment on the proposed curriculum;
- Provide a current list of the Construction Permit holders within the Central Coast Region;
- Provide a list including contact information of local stormwater vendors.

CalTrans may make suggestions for alternative workshop content. The Regional Board Executive Officer and the CalTrans District Director will mutually agree upon any changes to the approved curriculum or location of the training.

3. If CalTrans fails to make the payment required by Paragraph 1 or to complete, by September 2010, the fifteen workshops required by Paragraph 2, the Executive Officer shall reissue the Complaint. Caltrans may assert any defenses it now has to the Complaint other than any defenses based on a statute of limitations or laches, which Caltrans has agreed to waive.

**I, Roger W. Briggs, Executive Officer**, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the Regional Water Quality Control Board on March 25, 2005.

---

Roger W. Briggs, Executive Officer

---

Date